

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL CASE NO. 1:11cr10**

UNITED STATES OF AMERICA, )  
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                                )  
                                )  
vs.                           )       **O R D E R**  
                                )  
                                )  
JAMES W. “BILL” BAILEY, JR. )  
                                )  
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**THIS MATTER** is before the court on a letter received in chambers from attorney Robert E. Dungan regarding the scheduling of the ancillary proceedings in this case. A copy of Mr. Dungan’s letter is attached to this Order.

In his letter, Mr. Dungan states that the schedule of hearings set by the court needs to be “more realistic.” [See Letter, attached to this Order as Exhibit 1]. While Mr. Dungan asks the court to give “consideration . . . such that all parties will have a fair opportunity to present their cases,” he fails to identify any specific relief that he seeks from the court’s schedule. [Id.].

In order to seek relief from the court a party must file a motion, supported by a statement of the factual and legal bases for the relief sought. See Fed. R. Civ. P. 7(b)(1); LCvR 7.1(C). Having failed to file a motion as required by the Local Rules, Mr. Dungan’s request for reconsideration of the court’s scheduling of the ancillary proceedings in this case is denied.

The court appreciates that these proceedings are complicated and that the current schedule imposes a significant time constraint on the parties. With the court’s docket, however, there are only a limited number of days on the calendar that can be dedicated to these proceedings. The selection of the dates of the hearing was done after consultation with the Clerk

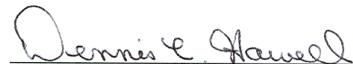
to determine when Courtroom No. 1 would be available and to determine when support personnel from the Clerk's office could be allocated. Additionally, the District Court and the Magistrate Judge's regular schedules had to be taken into consideration. To put the situation regarding the hearing of the claims in this matter in a nutshell, the dates selected are the only dates available. Reconsideration is not an option available to the court. All claimants and the government are urged to be prepared to present their evidence in a short and concise manner. The court is confident that the parties will be able to work together to narrow the issues and streamline the presentation of evidence so that these petitions can be resolved in a reasonable period of time.

**ORDER**

**IT IS, THEREFORE, ORDERED** that Mr. Dungan's request for reconsideration of the court's scheduling of the ancillary proceedings in this case is **DENIED**.

**IT IS SO ORDERED.**

Signed: August 8, 2011



Dennis L. Howell  
United States Magistrate Judge

